

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**TOMEKA E. SHOCKLEY,**

Plaintiff,

v.

**Civil Action No. 5:04-CV-426 (HL)**

**REBOUND, INC. d/b/a  
HEALTHSOUTH CENTRAL  
GEORGIA REHABILITATION  
HOSPITAL,**

Defendant.

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**ORDER**

Before the Court are Defendant Rebound, Inc.'s Emergency Motion to Extend Trial Date and Assign Case to Magistrate Judge for Settlement Conference (Doc. 76) and Motion to Transfer Action to Non-Jury Trial Calendar (Doc. 77).

This case was filed on December 20, 2004. It has now been pending for over four and a half years. The Court set the matter down for trial the week of August 17, 2009. In response, Defendant has provided a litany of reasons why it cannot be ready to try the case at the scheduled time, and has asked that the Court continue the trial date until at least November 17, 2009, and also order the parties to participate in a settlement conference to be conducted by one of the United States Magistrate Judges in this district. In addition, Defendant has moved the Court to transfer this case to the

non-jury trial calendar, as neither party has made a jury demand and Plaintiff has waived her right to a jury trial by failing to file a timely demand.

The Court agrees that this case should be moved to the non-jury calendar as no written jury demand was served no later than ten days after the last pleading directed to the issue was served. Fed. R. Civ. P. 38(b). The Court will not, however, continue this case for three months as requested by Defendant. This matter will come before the Court for a non-jury trial on September 9, 2009. A separate order regarding the pretrial conference and other matters will be issued in the near future.

As for Defendant's request for a mediation order, this case was previously ordered to mediation on February 13, 2007. The Court will not order a second mediation or settlement conference session. The parties are certainly welcome to engage in independent settlement negotiations if so desired.

Defendant's Emergency Motion to Extend Trial Date and Assign Case to Magistrate Judge for Settlement Conference (Doc. 76) is **DENIED**. Defendant's Motion to Transfer Action to Non-Jury Trial Calendar (Doc. 77) is **GRANTED**. This case will be removed from the August 3, 2009 pretrial conference calendar and the August 10, 2009 trial calendar, and will be set for trial on September 9, 2009.

**SO ORDERED**, this the 28<sup>th</sup> day of July, 2009.

s/ Hugh Lawson  
**HUGH LAWSON, SENIOR JUDGE**

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